

First Published in The Wichita Eagle on April 14, 2005

ORDINANCE NO. 46-565

AN ORDINANCE AMENDING SECTIONS 3.20.010, 3.20.020, 3.20.030 AND 3.20.040, CREATING SECTIONS 3.20.035, 3.20.050, 3.20.060, 3.20.070, AND 3.20.080 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO AMUSEMENT PARKS AND RIDES AND REPEALING THE ORIGINALS OF SECTIONS 3.20.010, 3.20.020, 3.20.030 AND 3.20.030 OF THE CODE OF THE CITY OF WICHITA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 3.20.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definition.** ‘AMUSEMENT PARK’ for the purpose of this chapter shall be construed to include and mean a permanent installation of riding and amusement devices of the type commonly employed in the operation of carnivals such as merry-go-rounds, ferris wheels, miniature trains, pony rides, carousels, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure and other similar devices.

‘PORTABLE AMUSEMENT RIDES’ for the purpose of this Chapter, shall be construed to include and mean the operation, leasing or renting of merry-

go-rounds, ferris wheels, miniature trains, pony rides, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure or other such amusement riding devices when portable or not part of an amusement park.

Amusement park and portable amusement park rides shall not include:

- a. Games, concessions and associated structures;
- b. Any single passenger coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator; and
- c. Nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features; rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices.
- d. Portable amusement rides which are used solely for personal use.”

SECTION 2. Section 3.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

" License Required--Fee. It shall be unlawful for any person, firm, partnership or corporation to engage in the business and occupation of operating

an amusement park or the operation, leasing or renting of portable amusement rides without having first obtained a license therefor from the City Treasurer or his/her designee and paying a license fee as follows:

(1) Persons engaged in the operation of amusement parks shall pay a license fee of six hundred dollars, which shall not be prorated and which shall be paid on May first of each year.

(2) Persons engaged in the operation of portable amusement rides, when not part of an amusement park as provided for in subsection (1) above, shall pay a license fee as follows: For twenty or more portable amusement rides the license fee shall be six hundred dollars, which shall not be prorated and which shall be paid on May first of each year. For persons who own, rent, or lease less than 20 portable amusement rides, the license fee shall be thirty dollars per ride, which shall not be prorated and which shall be paid on May first of each year.”

SECTION 3. Section 3.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Installation and operation regulations.** All amusement parks installed and operated shall conform to the following regulations and requirements:

ZONING RESTRICTIONS. No amusement park shall be installed or operated in use districts other than GC, CBD, LI or GI of the Wichita-Sedgwick County Unified Zoning Code, relating to zoning within the corporate limits of the city.

FENCES. Unless other fence screening is required by the Wichita-Sedgwick County Unified Zoning Code, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a minimum height of five feet.

TOILET FACILITIES. Adequate toilet facilities shall be provided in connection with such amusement park, the same to be constructed and maintained in accordance with the ordinances of the City of Wichita.

HEALTH AND SANITATION. Such establishment shall be operated in full compliance with all requirements relating to health and sanitation as promulgated by the ordinances of the city and the department of environmental health.

COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE. All improvements, riding devices or constructions installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this code, and the electrical code as set out in Title 19 of this code.

MUSIC-PRODUCING DEVICES. No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with an amusement park, or any riding device after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the Code of the City of Wichita regulating noise.

CLOSING HOURS. Amusement parks shall close and cease operations promptly at 12:00 midnight.

No riding device shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of amusement park attractions and portable amusement rides which are operated completely within an enclosed building.”

SECTION 4. Section 3.20.035 of the Code of the City of Wichita, Kansas, shall read as follows:

**“Operation Regulation of Portable Amusement Rides.** All portable amusement rides shall conform to the following regulations and requirements:

HEALTH AND SANITATION. Such establishment shall be operated in full compliance with all requirements relating to health and sanitation as promulgated by the ordinances of the City of Wichita.

COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE. All improvements, riding devices or constructions installed, erected or operated in connection with portable amusement rides shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this code, and the electrical code as set out in Title 19 of this code.

MUSIC-PRODUCING DEVICES. No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a portable amusement

ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the Code of the City of Wichita regulating noise.

CLOSING HOURS. No portable amusement device shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of portable amusement rides which are operated completely within an enclosed building.”

SECTION 5. Section 3.20.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Liability insurance.** No person, firm, partnership or corporation within the corporate limits of the city, shall be licensed to engage in the business or occupation of operating an amusement park or the operation, renting or leasing of portable amusement rides until a certificate of commercial general liability insurance with coverage of not less than \$1,000,000 per occurrence is deposited and filed with the City Treasurer or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the State, a not-for-profit organization or any subdivision of the State of Kansas.

The City will only accept coverage from an insurance carrier who offers proof that it:

- a. is authorized, legally recognized or is listed pursuant to K.S.A. 40-246e and amendments thereto, to do business in the State of Kansas;
- b. carries a Best's policyholder rating of A minus or better;
- and
- c. carries at least a class VIII financial rating or is a company mutually agreed upon by the City and the licensee."

SECTION 6. Section 3.20.050 of the Code of the City of Wichita, Kansas, shall read as follows:

"The licensee shall notify the City Treasurer, within ten business days, of any change in insurance policy limits, change in insurer or termination of any insurance policy or coverage."

SECTION 7. Section 3.20.060 of the Code of the City of Wichita, Kansas, shall read as follows:

**"Inspections.** The licensee shall, as part of the license application or renewal, provide the City Treasurer or his or her designee with a Certificate of Inspection for the operation of any amusement park or portable amusement ride.

Each certificate shall:

- a) State the date of inspection and the items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, and support equipment and supplies;
- b) Specifically state any and all known defects or dangerous conditions, including defects or conditions which could be reasonably

discovered pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, and support equipment and supplies.

Such inspections shall be performed by level I certified NAARSO, Level I certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state, within three months of the date of submission of an application for a new amusement park license. Thereafter, for the renewal of licenses, a valid inspection shall be an inspection performed by the level I certified NAARSO, Level I certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state during the first quarter of the calendar year during which the license will be renewed. Further, the existence of a defective or otherwise dangerous condition may be sufficient reason to deny the license requested.”

SECTION 8. Section 3.20.070 of the Code of the City of Wichita, Kansas, shall read as follows:

**“Enforcement and Inspection.** The Superintendent of Central Inspection, or his designee, and the Director of Environmental Health, or his/her designee, is authorized to inspect and approve the licensee’s premises and amusement devices to insure compliance with all state and federal laws and the ordinances of the City of Wichita governing public health, safety and welfare.”

SECTION 9. Section 3.20.080 of the Code of the City of Wichita, Kansas, shall read as follows:

“All licensees shall comply with all ordinances and regulations of the City of Wichita. A violation of the provisions of this chapter or any ordinances of the City of Wichita shall constitute grounds for revocation or suspension of the license as provided.”

SECTION 10. Section 3.20.090 or the Code of the City of Wichita, Kansas, shall read as follows:

**“Suspension or Revocation of License -- Notice of Hearing.**

(a) Any license issued under this ordinance may be suspended or revoked for a period not to exceed thirty (30) days by the Chief of Police or his/her designee upon five days' written notice, if the licensee (1) has failed to pay the annual license fee; (2) violated any provision of this ordinance; (3) becomes ineligible for a license; or (4) said licensee has given a false statement as to a material fact submitted to the City Treasurer during the application process. The cause for such revocation shall be set forth in the notice, and the licensee may appeal such an order of suspension in writing to the City Council within seven (7) days from the date of such order.

(b) The City Council, upon five days' written notice to the licensee may permanently revoke or cause to be suspended such license for any of the reasons enumerated in subsection (a) above. Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, manager, operator or agent, then in the absence of proof of knowledge by the licensee, there shall be no revocation, but there

may be a suspension of not more than thirty days. In the event any licensee is subjected to more than two such suspensions in any twelve-month period, his or her license may be revoked on the third such violation.

(c) An appeal taken from an order of suspension or revocation shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting for or on his or her behalf for a period of three years.

(d) For the purposes of subsections (a) and (b) above, written notice shall be deemed sufficient upon the mailing of the notice to the most recent address on the application of the licensee on file in the office of the City Treasurer.

(f) Within thirty (30) days after the order revoking or suspending any license, the licensee may appeal from such order to the district court of the county in the manner as provided by law; provided that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of such appeal.”

SECTION 11. Section 3.20.100 of the Code of the City of Wichita, Kansas, shall read as follows:

**“Penalty.** Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment.”

SECTION 12. The originals of Sections 3.20.010, 3.20.020, 3.20.030 and 3.20.040 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 13. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 5th day of April, 2005.

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Carlos Mayans, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law